

when so often programs like that have the potential to, in the long run, save money, but would get no credit for it. So we don't do things that we should be doing. Just like, as we were talking about earlier in the evening on electronic medical records, yes, it would cost some money, Mr. Speaker; the Federal Government would have to spend some money. I think that the new Democratic leadership has made a mistake in enacting these PAYGO rules which make it impossible in some instances to do things like the physician payment fix that Dr. BURGESS is talking about, the repeal of the alternative minimum tax, which clearly was a mistake, an oversight 35 years ago when it wasn't indexed for inflation.

And so now the Democratic leadership has put themselves in a position where we can't get things done because of those PAYGO rules when in the long run the program that we would enact would save money; it wouldn't cost money. So you would be paying for it doubly by cutting another program and raising taxes to pay for something that will eventually pay for itself. And, certainly, I think that's true with Medicare part D, and I absolutely believe it is true with the electronic medical records system that we need in this country, and I think it's true in regard to medical liability reform that Dr. BURGESS is talking about. So I thank the gentleman for bringing that up, and I yield back.

Mr. BURGESS. I thank the gentleman for his participation this evening. I actually thank you for bringing up the issue about Congressional Budget Office scoring. We're about to the time in this Congress where you hear us talk a lot about the budget, and we will be developing the parameters of the congressional budget shortly after the President gives his State of the Union message here in a few weeks. The President delivers his budget, and then we come up with a congressional version of the budget.

The last year when we were working on the budget, I brought essentially what was the Texas medical liability reform model to the Budget Committee, had it scored by the Congressional Budget Office, and it scored in a savings just under \$4 billion over the 5-year budgetary window, not an enormous amount of money; but for a body that spends \$3 trillion a year, it was savings worth looking at. And the Texas legislation, as the gentleman from Georgia pointed out, the law passed in California back in 1975 seems like forever ago. The Medical Injury Compensation Reform Act of 1975 passed in the State of California, signed by the Governor, who at the time was Jerry Brown. This same concept in Texas was developed. And the Medical Injury Compensation Reform Act of 1975 in California capped noneconomic damages at \$250,000. The Texas bill was a little more flexible than that: it allowed for a trifurcated cap of \$250,000 on the physician and

\$250,000 on the hospital, and \$250,000 on a second hospital or nursing home if one was involved.

But that trifurcated cap allowed for a little more flexibility in trying to establish just compensation for a patient who, indeed, had been injured; but it also acknowledged the reality of our system in that you cannot have an open-ended amount of compensation for noneconomic damages because it throws so much indecision into the system that people can't make rational decisions.

So by trifurcating the cap, and interestingly enough, in the State of Texas punitive damages were still allowed to stand, we also had periodic payments for large settlements, and we also had a Good Samaritan rule. This bill passed in 2003. It was upheld under a constitutional amendment election in September of 2003 and has now been the law of the land since that time. And we have seen phenomenal success in Texas, not only with holding down the cost of medical liability premiums, which were going up year after year after year, but we also saw medical liability insurers leaving the State in vast numbers. In fact, we've gone from 17 down to two. And you just don't get very good competition between insurance companies when you only have two of them.

So we now have brought more insurers back into the State. They've come back into the State without an increase in premiums. In fact, Texas Medical Liability Trust, my last insurer of record, has reduced premiums by 22 percent over the last 4 years compared to double-digit increases for each of the last 5 years prior to 2003.

So it really is a phenomenal success story. Smaller, mid-sized not-for-profit community hospitals have had to put less money into their contingency funds to cover possible liability payouts, and as a consequence they've been able to return more money to capital investment, hiring nurses, just the kinds of things you want your smaller community not-for-profit hospital to be able to do when released from some of the constraints of the liability system.

I'm not saying that this is perfect; I'm not saying that this is what we should all aspire to. Certainly there are reasons to consider concepts like medical courts. Certainly there are reasons to consider concepts like early offer. But the fact of the matter is we can do a lot better than what we're doing today because the system that we have today only compensates a small number of the patients who are actually injured. And, moreover, the time it takes for a patient to recover money under the current system is far too long.

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And if you will, the administrative costs, that is, costs of the medical experts and the legal system and the lawyers' costs, consume about 55 to 58 percent of every dollar that's awarded in a

settlement. Well, we wouldn't tolerate a health insurance company that had an administrative cost of 58 percent. We'd call them profiteers and we'd bring them up before hearings, but yet we tolerate it in our medical justice system every day of the week. And it's not right.

I want to so much thank my friend from Georgia for joining me here tonight. This is an issue that we will get to talk about a lot over this next year. Obviously, we have got a 6-month window of opportunity on getting the physician payment formula right. I believe that means taking a short-term, mid-term, and long-term approach to the problem, which I have tried to do in the past. And we will be working with other people here in the House of Representatives, I hope on both sides of the aisle, to try to craft a solution to this problem, which has vexed this Congress for a number of years. But suffice it to say, we will be able to be back here on several more occasions talking about this and other issues as they relate to health care in this country.

#### GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I would ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore (Mr. ALTMIRE). Under the Speaker's announced policy of January 18, 2007, the gentleman from Tennessee (Mr. COHEN) is recognized for 60 minutes as the designee of the majority leader.

Mr. COHEN. Mr. Speaker, the subject of my Special Order today is the birthday of one of America's greatest citizens, Dr. Martin Luther King, Jr.

Dr. King's birthday will be celebrated next week with the national holiday on Monday, one of the only men or women to have a holiday named for them in this country. At one time, of course, we celebrated the birthdays of George Washington and Abraham Lincoln, and now we celebrate Presidents Day. But we celebrate Dr. King's Day, a great American and an individual who changed this country for the better and whose life is a testament to fortitude and courage, faith, and a desire to make America better.

On April 4, 1968, 40 years ago this year, Dr. Martin Luther King, Jr. was assassinated in my hometown of Memphis, Tennessee. That was a defining moment in the history of America, indeed, in the history of the world. While Dr. King's death should not and will not ever be forgotten, I think that today on what would have been his 79th